

PS  
✓

Referred to  
the Committee on  
Corrections

By: Lyon

S.B. No. 190

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph examination.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Except as provided by Section 2 of this Act, in this Act, "peace officer" means a person elected, appointed, or employed by a governmental entity as a peace officer under Article 2.12, Code of Criminal Procedure, or other law.

(b) A peace officer or an employee of the Texas Department of Corrections may not be suspended, discharged, or subjected to any other form of employment discrimination because the person refuses to take a polygraph examination.

SECTION 2. This Act does not apply to a peace officer commissioned by the ~~Texas~~ Department of Public Safety. *of the State of Texas*

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

1 By: Lyon S.B. No. 190  
2 (In the Senate - Filed January 18, 1989; January 23, 1989,  
3 read first time and referred to Committee on Criminal Justice;  
4 February 15, 1989, reported favorably by the following vote: Yeas  
5 5, Nays 1; February 15, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 McFarland	x			
8 Brown		x		
9 Dickson	x			
10 Lyon	x			
11 Santiesteban	x			
12 Tejada	x			
13 Washington				x

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26 of Corrections may not be suspended, discharged, or subjected to  
27 any other form of employment discrimination because the person  
28 refuses to take a polygraph examination.

29 SECTION 2. This Act does not apply to a peace officer  
30 commissioned by the Department of Public Safety of the State of  
31 Texas.

32 SECTION 3. The importance of this legislation and the  
33 crowded condition of the calendars in both houses create an  
34 emergency and an imperative public necessity that the  
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36 days in each house be suspended, and this rule is hereby suspended,  
37 and that this Act take effect and be in force from and after its  
38 passage, and it is so enacted.

39 \* \* \* \* \*

40 Austin, Texas  
41 February 15, 1989

42 Hon. William P. Hobby  
43 President of the Senate

44 Sir:

45 We, your Committee on Criminal Justice to which was referred S.B.  
46 No. 190, have had the same under consideration, and I am instructed  
47 to report it back to the Senate with the recommendation that it do  
48 pass and be printed.

49 McFarland, Chairman

# SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

13  
Feb. 14, 1989  
(date)/(time)

Sir:

We, your Committee on CRIMINAL JUSTICE to which was referred  
SB 190 by CYON have on Feb. 14, 1989, had the same  
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☐ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
McFarland, Chairman	<input checked="" type="checkbox"/>			
Brown, Vice Chairman		<input checked="" type="checkbox"/>		
Dickson	<input checked="" type="checkbox"/>			
Lyon	<input checked="" type="checkbox"/>			
Santiesteban	<input checked="" type="checkbox"/>			
Tejeda	<input checked="" type="checkbox"/>			
Washington				<input checked="" type="checkbox"/>
TOTAL VOTES	5	1		1

Ed Louder  
COMMITTEE CLERK

Don McFarland  
CHAIRMAN

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE January 24, 1989

TO: Honorable Bob McFarland, Chairman  
Committee on Criminal Justice  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 190  
By: Lyon

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 190 (relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph examination) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, LV

February 20 1989 Engrossed

*Patsy Law*  
Engrossing Clerk

I certify that the attached is a true and correct  
copy of **SB 190** which was  
received from the Senate on **FEB 20 1989** and  
referred to the Committee on **Public Safety**

*Patsy Law*  
Chief Clerk of the House

By: Lyon  
(Blackwood)

S.B. No. 190

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passage, and it is so enacted.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

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Committee on Criminal Justice  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 190  
By: Lyon

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Source: LBB Staff: JO, JWH, AL, LV

# HOUSE COMMITTEE REPORT

1st Printing

By: Lyon  
(Blackwood)

S.B. No. 190

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COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

5-11-89  
(date)

Sir:

We, your COMMITTEE ON PUBLIC SAFETY,

to whom was referred SB 190 have had the same under consideration and beg to report  
(measure)

back with the recommendation that it

- ☒ do pass, without amendment.  
☐ do pass, with amendment(s).  
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes ☐ no An actuarial analysis was requested. ☐ yes ☒ no

An author's fiscal statement was requested. ☐ yes ☒ no

A criminal justice policy impact statement was prepared. ☐ yes ☒ no

A water development policy impact statement was requested. ☐ yes ☒ no

☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ☐ Local, ☐ Consent, or ☐ Resolutions Calendar.

This measure ☒ proposes new law. ☐ amends existing law.

House Sponsor of Senate Measure Blackwood

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, R., Ch.	<input checked="" type="checkbox"/>			
Arnold, V.C.				<input checked="" type="checkbox"/>
Carter, C.B.O.				<input checked="" type="checkbox"/>
Blackwood				<input checked="" type="checkbox"/>
Crawford	<input checked="" type="checkbox"/>			
Johnson, S.				<input checked="" type="checkbox"/>
Kubiak	<input checked="" type="checkbox"/>			
Swift	<input checked="" type="checkbox"/>			
Telford	<input checked="" type="checkbox"/>			

Total 5  
0 aye  
0 nay  
0 present, not voting  
4 absent

R. Smith  
CHAIRMAN  
Deborah K. Wall  
COMMITTEE COORDINATOR



SB 190 by Lyon (Blackwood)

#### BILL ANALYSIS

Relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph test.

#### Background Information

Under Article 4413 (29cc), a person is to be informed that his participation in a polygraph examination is voluntary. However, prior to 1987, an officer commissioned by the Department of Public Safety (DPS) could be discharged for failing to sign a voluntary waiver of consent and not obeying an order to take a polygraph examination.

HB 1622 of the 70th Legislature allowed that no DPS officer should be discriminated against with regard to employment due to the officer's refusal to take a polygraph examination. However, the bill as enacted (Article 4413(17b) VTCS) is limited in scope to officers of DPS.

#### Purpose

SB 190 would prohibit employment discrimination against peace officers who refuse to take a polygraph examination.

#### Section by Section Analysis

SECTION 1. Subsection (a) defines "peace officer" for the purposes of the Act.

Subsection (b) provides that no peace officer or employee of the Texas Department of Corrections shall be subject to employment discrimination due to their refusal to take a polygraph examination.

SECTION 2. Provides that this Act is not applicable to DPS officers.

SECTION 3. Emergency clause.

#### Rulemaking Authority

It is the committee's opinion that this bill does not delegate rulemaking authority to a state officer, agency, department, or institution.

#### Summary of Committee Action

Pursuant to a suspension of the 5-day posting rule, a public hearing was held on May 10, 1989 and SB 190 was left as pending business before the committee.

Pursuant to an announcement from the House Floor on May 11, 1989, the full committee convened in a formal meeting on May 11, 1989 and voted to report SB 190 without amendment with the recommendation that it do pass by a record vote of 5 Ayes, 0 Nays, 0 Present, Not Voting and 4 Absent.

Representative Blackwood testified in favor of SB 190.

Mr. Ron DeLord, representing CLEAT, testified in favor of SB 190.

There was no testimony in opposition to SB 190.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 7, 1989

TO: Honorable Richard A. Smith, Chair  
Committee on Public Safety  
House of Representatives  
Austin, Texas

In Re: Senate Bill No. 190,  
as engrossed  
By: Lyon

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 190, as engrossed (relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph examination) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, BL

3

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE January 24, 1989

TO: Honorable Bob McFarland, Chairman  
Committee on Criminal Justice  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 190  
By: Lyon

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 190 (relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph examination) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: LBB Staff: JO, JWH, AL, LV

S. B. No. 190

By

Lyon

A BILL TO BE ENTITLED

relating to prohibiting discrimination against certain peace officers and department of corrections employees for refusal to take a polygraph examination

1-18-89 Filed with the Secretary of the Senate

JAN 23 1989 Read and referred to Committee on CRIMINAL JUSTICE

FEB 15 1989 Reported favorably \_\_\_\_\_

\_\_\_\_\_ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

\_\_\_\_\_ Ordered not printed

\_\_\_\_\_ Laid before the Senate

FEB 20 1989 Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

FEB 20 1989 Read second time, \_\_\_\_\_, and ordered engrossed by: { unanimous consent  
a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Caption ordered amended to conform to the body of the bill.

FEB 20 1989 Senate and Constitutional 3 Day Rule suspended by a vote of 28 yeas, 2 nays.

FEB 20 1989 Read third time, \_\_\_\_\_, and passed by 29 yeas, 1 nays.

Letty King  
SECRETARY OF THE SENATE

OTHER ACTION:

Feb. 20, 1989 Engrossed

2-20-89 Sent to House

Engrossing Clerk

Ratsy Law

FEB 20 1989 Received from the Senate

MAR 1 1989 Read first time and referred to Committee on Public Safety

5-11-89 Reported favorably amended, sent to Printer at 11:58am MAY 12 1989

MAY 12 1989 Printed and Distributed 5:14pm

MAY 15 1989 Sent to Committee on Calendars 8:38am

\_\_\_\_\_ Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_ Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_ Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_ Caption ordered amended to conform to body of bill.

\_\_\_\_\_ Returned to Senate.

CHIEF CLERK OF THE HOUSE

\_\_\_\_\_ Returned from House without amendment.

\_\_\_\_\_ Returned from House with \_\_\_\_\_ amendments.

\_\_\_\_\_ Concurred in House amendments by a viva voce vote \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

\_\_\_\_\_ Senate conferees instructed.

\_\_\_\_\_ Senate conferees appointed: \_\_\_\_\_, Chairman; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_

\_\_\_\_\_ House granted Senate request. House conferees appointed: \_\_\_\_\_, Chairman;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference Committee Report read and filed with the Secretary of the Senate.

\_\_\_\_\_ Conference Committee Report adopted on the part of the House by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Conference Committee Report adopted on the part of the Senate by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays